

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,
v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and Bernard L.
Madoff,

Plaintiff,
v.

THE LUSTIG FAMILY 1990 TRUST; and DAVID
I. LUSTIG, individually and in his capacity as
Trustee for The Lustig Family 1990 Trust,

Defendants.

Adv. Pro. No.: 10-04417 (SMB)

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and Bernard L.
Madoff,

Plaintiff,
v.

DAVID IVAN LUSTIG,

Defendant.

Adv. Pro. No. 10-04554 (SMB)

**ORDER AUTHORIZING THE TRUSTEE TO MOVE TO STRIKE CERTAIN
AFFIRMATIVE DEFENSES AND ESTABLISHING BRIEFING SCHEDULE**

WHEREAS, counsel for the defendants in the above-captioned adversary proceeding (“Defendants”) having requested a discovery conference pursuant to Local Bankruptcy Rule 7007-1 to determine the relevance of discovery requests relating to certain affirmative defenses;

WHEREAS, the Court heard oral argument from both parties on January 25, 2017 at 2:00 p.m. and determined it most efficient for the parties to submit briefs with respect to the viability of certain affirmative defenses prior to deciding the discovery dispute and to hold any determination relating to relevancy of the discovery requests in abeyance pending the resolution of the briefing;

WHEREAS, the Court having issued a bench ruling authorizing the Trustee to file a motion to strike certain affirmative defenses pursuant to Federal Rule of Civil Procedure 12(f) (the “Motion”) and having directed the Trustee to submit an order consistent with the bench ruling, it is hereby:

1. ORDERED, that the Trustee is authorized to file the Motion, and it is further
2. ORDERED, that the schedule for briefing and argument on the Motion shall be as follows:
 - a. The deadline for the Trustee to file the Motion is February 28, 2017;
 - b. The deadline for the Defendants to file an opposition to the Motion is March 31, 2017;
 - c. The deadline for the Trustee to file a reply to the Motion is April 14, 2017, and
 - d. Oral argument on the Motion will be heard by this Court on May 2, 2017 at 10:00 a.m.

SO ORDERED

Dated: January 27, 2017
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE